

Written by  
Friday, 26 November 2010 18:37 -

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By JOSEPH G. LARIOS

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C HICAGO (*jGLi*) – One of the surviving kin of the Maguindanao-Massacre victims is frustrated that her father is not being considered as one of the journalist victims killed in the said incident a year ago.

In an e-mail to this columnist, Reynafe “Nenen” Momay-Castillo, a registered nurse, wants to take matters into her own hand so she can prove that her father, Renato “Bebot” Reynafe, a photographer of *Midland Review*, is among those victims of the world’s most-gruesome murder of journalists.

“I (am) still considering training on Forensic Nursing since I have been frustrated on how forensic procedure was done” after the Massacre, she told me.

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Nenen said it is “so hard on our part because we did not receive anything from the government.” Right after the Massacre on Nov. 23, 2009, the government of Gloria Macapagal Arroyo reportedly gave 100,000 pesos (US\$2,173.00) financial aid to each of the surviving victims of the Massacre.

Ms. Momay-Castillo said, “May I correct the number of victims in your reports (?)” There are “58 victims, 57 recovered bodies and 1 (one) missing to date. The missing journalist is my father, Reynaldo “Bebot” Momay. The number of journalist victim(s) in that convoy is 32.”

But Ms. Momay-Castillo has believers among the surviving victims because she was appointed auditor of the victims’ group called “Justice Now.” Besides, even the Committee to Protect Journalists also listed her father as among those victims in the heinous crime.

## **VICTIM OF INJUSTICE**

She says, “My fight now is to correct the number because my father is also a victim and should be counted. We are the most aggrieved family in this incident. My heart really cries if the number did not include my father.”

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If she truly believes that she is a victim of injustice, Ms. Momay-Castillo should take her case to her area congressman if the government through the police, the National Bureau of Investigation or the Department of Justice would not investigate her “missing person” report about her father.

She can tell her congressman that Congress craft a law patterned after the “Hearsay Law” in Illinois that codified the recent ruling of the United States Supreme Court in the case of Giles v. California, which ruled that statements to law-enforcement officers are admissible as testimony if the defendant is found to have caused “unavailability.”

In this case, Dwayne Giles was convicted of killing his former girlfriend, Brenda Avie, based on Avie’s previous statement to the police that Giles threatened her. In California, there is a law that provides that extra-judicial statements are admissible in court if the person, who made such testimony, is unavailable (or, in this case, dead) during trial.

Although, this ruling appears to contravene with the U.S. Constitution’s Sixth Amendment right to confront witnesses, the majority ruling in Giles confirmed the legal concept of “forfeiture by wrongdoing.”

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## **MERITS OF CIRCUMSTANTIAL EVIDENCE**

The “Hearsay Law” is now being applied against a former Illinois police officer Drew Peterson, who is facing charges that he murdered third of his four wives. He is being held on a \$20-million bond.

The Philippine Congress can even expand the “Hearsay Law” by including confession to priests and “other persons in authority” to be admissible as evidence upon witness’s “unavailability.”

For now, Ms. Momay-Castillo should keep on gathering evidence that could establish the presence of her father in the crime scene, including testimonies, her father’s personal property, including camera, pens, clothing, dentures, etc.

Getting a “Hearsay Law” to pass appears to be a long shot but if this becomes a reality, then, it will be a handy tool for her to prove her claim.

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If she will not initiate this, who will? If not now, when?

I just want to see justice is done to my brethren, who are victims of this horrific crime.

Although, there is always a possibility of victims turning up alive, there have several cases around the world, where killers were convicted based on circumstantial evidence.

Among these was the United States case of *People v. Scott* 176 Cal. App. 2d 458 (1960) that held that "circumstantial evidence, when sufficient to exclude every other reasonable hypothesis, may prove the death of a missing person, the existence of a homicide and the guilt of the accused".

In England in 2002, Stuart Campbell was convicted of murdering his niece, Danielle Jones, based on the “forensic authorship analysis of text messages sent to Jones’ mobile phone,” even in absence of the body that was never found.

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In the 2000 murder case of Keith William Allan in Australia, forensic accounting – the victim's money being laundered in a casino – was established as a motive for his murder. Police also found one of the killers driving the victim's car and entries on mobile-phone records led to the killers. Allan's body was never found. # # #

**Editor's Note:** To contact the author, please e-mail him at: ([lariosa\\_jos@sbcglobal.net](mailto:lariosa_jos@sbcglobal.net))

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